

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

2006 JUN 21 PM 10:09

MITCHELL BRACKNELL,

Plaintiff,

v.

THE COUNTY COMMISSION OF
MONTGOMERY COUNTY, ALABAMA;
SHERIFF D.T. MARSHALL; AND A-Z
Fictitious Defendants,

Defendants.

Civil Action Number: 2:06cv3114-VPM

MOTION TO DISMISS OF DEFENDANT GINA M. SAVAGE

COMES NOW Defendant Gina M. Savage, pursuant to Rule 12(b)(6), Fed. R. Civ. P., and moves this Court to dismiss all claims asserted against her in the Plaintiff's Amended Complaint. Defendant shows as follows:

1. Plaintiff's Complaint, as amended, fails to state a claim against this Defendant for which relief can be granted.
2. Plaintiff's federal claims against Defendant Savage in her official capacity should be dismissed because Defendant is entitled to immunity pursuant to the Eleventh Amendment.
3. Plaintiff's federal claims against Defendant Savage in her individual capacity should be dismissed because Defendant is entitled to qualified immunity.
4. Plaintiff's 42 U.S.C. § 1983 claims against this Defendant are due to be dismissed because Defendant is not a "person" under 42 U.S.C. § 1983.
5. Plaintiff's Complaint fails to state a claim for a violation of the Fourth Amendment.

SCANNED

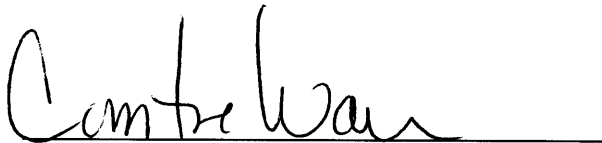
CX 102206

6. Plaintiff's Complaint fails to state a claim for a violation of the Fourteenth Amendment.

7. Plaintiff's Complaint fails to state a claim against Defendant for failure to train or for supervisor liability pursuant to 42 U.S.C. § 1983.

8. Plaintiff's state law claims are due to be dismissed because Defendant Savage is entitled to absolute immunity pursuant to Article I. § 14, *Constitution of Alabama 1901*, or State-agent immunity.

WHEREFORE, THE PREMISES CONSIDERED, Defendant Gina M. Savage respectfully requests that this Court enter an order dismissing all claims against her in the Plaintiff's Amended Complaint, and award the Defendant any other relief to which she may be entitled.

A handwritten signature in black ink, appearing to read "Constance C. Walker", is written over a horizontal line.

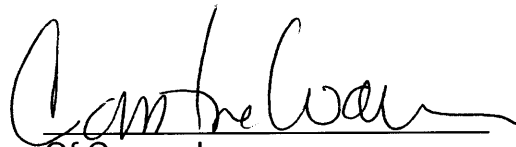
Constance C. Walker (WAL144)
Attorney for Defendant Gina M. Savage

OF COUNSEL:
HASKELL SLAUGHTER YOUNG & GALLION, L.L.C.
305 South Lawrence Street
Post Office Box 4660
Montgomery, Alabama 36103-4660
Telephone: (334) 265-8573
Facsimile: (334) 264-7945

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing on those listed below by placing a copy of same in the United States mail, postage prepaid and properly addressed on this the 21 of June, 2006.

J. Scott Hooper
The Hooper Law Firm, PC
Post Office Box 230894
Montgomery, Alabama 36123-0894
(334) 271-1555
(334) 271-1552 (Facsimile)


Of Counsel